

Public Support for Jewish Day Schools: The Arizona Tax Credit

RANDY WARNER AND FRED ZEIDMAN

Arizona's innovative Tuition Tax Credit is a real benefit to Jewish day schools in the greater Phoenix Jewish community.

In 1997 the State Legislature of Arizona embarked upon a bold experiment to support private education by enacting Arizona Revised Statute 43-1089. This statute established a tax credit for contributions to "school tuition organizations" (STOs). These non-profit corporations award scholarships to children to attend private schools. The legislation allows individuals to claim a dollar-for-dollar tax credit of up to \$500 for donations to qualifying organizations that provide scholarships to private or religious school students. Any charitable organization in the state of Arizona that is exempt from federal taxation and that allocates at least 90% of its annual revenue for educational scholarships or tuition grants to allow children to attend any qualified school of their parents' choice can become a STO. The STO may not limit the availability of educational scholarships or tuition grants to students of only one school. The Arizona tax credit program directs the funds to any full time school covering grades K-12. Thus, the law is generally interpreted to preclude designation by donors of a particular school or a specific student as the recipient of their contributions.

The tuition tax credit program has not been without controversy. Challenges have been brought by both the Arizona Education Association and the Arizona Civil Liberties Union. Both challenges claimed that the program violates the establishment clause of the U.S. Constitution. These challenges purport that the tax credit, in the end, is covered by state funds and therefore is in conflict with separation of church and state.

The Arizona Supreme Court upheld the validity of the tax credit while the U.S. Supreme Court declined to review the matter, paving the way for the state to implement the tax credit program.

In 1998, the first year in which the program took effect, school tuition organizations raised nearly two million dollars. In 1999, all Arizona school tuition organizations raised a total of \$13,706,611. These dollars were raised by some 34 different school tuition organizations operating in Arizona. Among these 34 school tuition organizations, three are dedicated to Jewish day schools. Chabad sponsors a STO that supports a 9-12 grade high school; a second school tuition organization is called the Chedar STO, which supports two orthodox K-8 day schools, one in Tucson and one in Phoenix. The third Jewish STO is the Jewish Community Day School Scholarship Fund, which was formed by and is managed by the Jewish Federation of Greater Phoenix. The Jewish Community Day School Scholarship Fund supports a high school that will open its doors in August of 2001, a K-3 grade elementary school at one of the Jewish Community Centers; two full time kindergarten programs, one at a second Jewish Community Center, and the other at an area congregation; a K-8 day school and a K-6 day school.

In 1999, the Chedar organization raised \$257,000. That same year the Jewish Community Day School Scholarship Fund raised a total of \$391,000. Neither the Chedar STO nor the Chabad STO reported in 1998; Chabad additionally did not report in 1999. Numbers for the Chabad and Chedar organizations were not available for 2000 at the time of printing, but the

Jewish Community Day School Scholarship Fund alone has raised over \$620,000.

JEWISH FEDERATION IMPLEMENTATION

The tuition tax credit provided the Jewish Federation of Greater Phoenix with an incredible opportunity, but not without considerable issues to weigh. On the one hand it was very clear to the Federation that the tax credit program and the formation of a community-wide school tuition organization could generate considerable dollars for scholarships for the community's constituent Jewish day schools. On the other hand, community leaders recognized the political ramifications of the position and carefully considered the opinions of community members who would view such involvement as "selling out" and crossing the line between separation of church and state. Therefore, the Federation's initial response was to tread lightly in this area.

The Jewish Federation created a separate 501-C-3 organization with a board consisting of two representatives from each participating school, and a chair appointed by the president of the Federation. In addition, the Federation provided staff support to the STO. Our initial vision was to remain in the background but to promote the STO statewide in support of all Jewish day schools in Arizona. We invited every Jewish day school to participate. The Phoenix Hebrew Academy, a modern orthodox based community K-8 day school, had already formed a partnership with a similar school in Tucson. Chabad decided that they would form their own STO. The remaining day schools in greater Phoenix agreed to partner with us.

Once the STO was launched and the contributions were received, the community solidly lined up support of Federation's involvement in the program. As a result of the support, we have been very public about our involvement. Updates are given regularly to our executive committee and Federation board. While the decisions of the STO are made solely by the board of directors, Federation provides staff support and communicates regularly with STO leadership so that its policies and vision are consistent with those of Federation and the greater Phoenix Jewish community.

The policy making body for the STO is its Board of

Directors. As described earlier the Board consists of two representatives from each participating school designated by the school itself. The chair of the board is appointed by the president of the Jewish Federation of Greater Phoenix. The board sets policy with regard to the marketing of the tax credit program, the scholarship application process and distribution of scholarship dollars, and defines the administrative budget. A separate committee appointed by the board is responsible for the review of scholarship applications. Members of that committee are appointed from within the partnering schools, but none of the members may have children enrolled in any of the participating day schools.

Last year, the first year that scholarships were awarded by the Jewish Community Day School Scholarship Fund, scholarships were awarded on two levels. A \$200 "attendance scholarship" was made available to every youngster who applied and who would be attending one of the participating day schools. The goal of the attendance scholarship is to lower the cost of Jewish day school education for all students. Interestingly, relatively few families applied for the attendance scholarship and a significant number of those who did apply gifted the scholarship dollars to the school where their child was enrolled. The vast majority of scholarships, however, were need-based. Parents were required to submit tax returns and W-2 forms along with an application package. The packages were reviewed, in turn, by staff and given to the committee without reference to the school or name of applicant so that each application was reviewed "blind." The committee targeted the dollars to those families in greatest financial need. Income alone was not the sole determining factor, and special extenuating circumstances were considered, such as medical bills, number of children enrolled in private Jewish day schools, and other family hardship issues. A surprising number of applications came from single parent households earning less than \$40,000 a year.

Because of the newness of the scholarships, two funding cycles were established. Not all of the dollars were disbursed in the first round of awards, and schools were asked to encourage parents in need to submit applications for a second funding round that occurred several weeks later. Because less money was available in the second round, awards were also smaller. In the coming year, it is likely that there will only be a single funding

round due to the anticipated demand that will be created by the addition of the Jess Schwartz Jewish Community High School. None of the applicants received 100% of their request. It was the committee's strong feeling that every family should pay something towards its children's education.

ISSUES AND CONCERNS

One of the thornier problems to be addressed between the Federation and the Scholarship Fund concerns the reimbursement of administrative expenses and the evaluation of the cost of those expenses. The state law requires that 90% of the dollars collected be disbursed as scholarships, leaving 10% for administrative expenses. The Federation sought to be compensated for staff time devoted to support of the STO, as well as direct expenses for marketing, including cost of mailing, printing, and development of marketing materials. Based upon the service rendered by Federation, the STO has agreed that for both the past year and the current year Federation would be entitled to a management fee of 7% of gross receipts, plus reimbursement of out-of-pocket costs, subject to a cap of 10% in order to comply with the statute.

The STO took a much more aggressive approach to marketing in the current year, including two mailings to the entire Federation membership list, several full page ads in the local independently owned Jewish newspaper, a full page ad in each of the local secular newspapers, and a phone-a-thon. Marketing is targeted to several critical dates in the calendar including an ad and mailing to coincide with the Jewish New Year, ads to occur at the end of November, which is when people begin thinking of their tax situation, and newspaper ads to coincide with Hanukkah and year-end tax preparation. Responses in the form of donations began to appear towards late November with the bulk of contributions received in the last weeks of December.

Based on the amount of money raised over the last two years and numbers of students helped, it would appear that the program is an unqualified success in our community. There is no doubt that it has freed up considerable dollars for our Jewish day schools in the form of scholarships representing actual cash payments to our day schools. We are certainly optimistic about the pro-

gram's continuation but see uncertainty around a number of issues. The impact of the tax credit dollars for scholarships in terms of our annual allocations to day schools is somewhat uncertain. Very limited amounts of money had been available in the past for scholarships through our allocation process. Last year those dollars were reallocated in the knowledge that less than \$20,000 given for scholarships through the allocation process would be more than offset by the \$360,000 available through the tax credit program. Our community still allocates over \$200,000 annually to our constituent day schools. There are those in the community who would like that number re-evaluated, in light of the scholarship dollars being made available.

A second area of concern relates to the opening of the Jess Schwartz Jewish Community High School and the impact that it will have on the demand for scholarship dollars relative to demands from the other day schools. The situation should not be significant in the first year given the significant increase in dollars available this year over last, relative to the expected number of students enrolled in the high school. That will change as high school enrollment increases. The great unknown is the upper limit on how much we can raise in our community through the tax credit program. Optimistically we believe that number to be 2-2.5 million dollars but we believe that it will take a number of years before we can achieve those levels.

A third area concerns the definition of what constitutes a "Jewish day school" and with the institutions with which the STO is willing to partner. This, however, is a larger issue that our community will need to address in terms of its overall support for Jewish day school education.

Finally, there remains the issue of the longevity of the tax credit program. At what point is the state likely to put a limit on the program or do away with it altogether? The more successful the tax program is, the more likely will be the pressure to place limits on it since it is perceived to take dollars away from public school education. The state allows a \$200 tax credit, to go up to \$250 next year, for donations made to public schools. Notwithstanding the public school credit, there is concern that at some point a backlash campaign will be mounted that will succeed in placing limits or in altogether eliminating the tax credits for private school

education. In the event that it happens, our community does not have a plan in place for replacing those scholarship dollars out of our current allocation process.

Ideally, the STO would like to develop a reserve of sufficient size to generate scholarship funds from the interest on those reserves. However it is doubtful under current state legislation that such a reserve could come about unless it could be developed out of the 10% that would be allowed for administrative expenses.

SUMMARY

In conclusion, our Federation is grateful for the opportunity to provide the scholarships through the tax credit program. We believe it is a viable program for our community and we hope to continue providing a subsidized Jewish day school education to every youngster who chooses to go to a Jewish day school. The separation of church and state is still an issue but will likely continue to be in the background within the Jewish community as long as the scholarship program is a success. The specter of a backlash outside the Jewish community and the potential success of that backlash in eliminating the tax credit program is a real concern to the community. Finally, we see the need for continued marketing and promotion of the program aimed at educating potential donors of the benefits of the program. There are a surprising number of potential donors who simply do not understand the benefit of a tax credit. We need to find better ways to reach these individuals and to explain the benefits to them. Finally, it is our understanding that two other states may be considering a similar program. Court challenges to the two state-sponsored voucher programs may induce more states to look to tax credits as an alternative to vouchers as a method of promoting diverse educational options for our youth.

It is our firm belief that, politics aside, it is the responsibility of our Jewish community through the Jewish Federation of Greater Phoenix to do whatever we can to ensure a rich and significant Jewish education for our youth.

RANDY WARNER is Chair of the Jewish Day School Scholarship Fund and FRED ZEIDMAN is Associate Director of the Jewish Federation of Greater Phoenix and staff to the Scholarship Fund.